

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROMAN CATHOLIC DIOCESE OF
BROOKLYN, NEW YORK,

Plaintiff,

vs.

GOVERNOR ANDREW M. CUOMO in his
official capacity,

Defendants.
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**DECLARATION OF JOSEPH J. ESPOSITO IN SUPPORT OF PLAINTIFF'S
APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

I, Joseph J. Esposito, hereby declare under penalty of perjury pursuant to 28 U.S.C.
§ 1746, and state as follows:

1. I submit this declaration in support of Plaintiff's application for a temporary restraining order and preliminary injunction in order to explain the rigorous protocols and practices that the Catholic Church has implemented in Brooklyn and Queens to prevent the spread of COVID-19 during Church services, under my guidance as the former Chief of Department of the New York City Police Department and the former Commissioner of New York City Emergency Management. These protocols, which at all times followed the guidance of City, State, and Federal authorities, include limited attendance, limiting the number of services, requiring social distancing and masking, blocking off sections of seating, monitoring foot traffic flow, keeping all doors open so that worshipers may enter and exit in a socially distant manner, and even altering the way Holy Communion is taken. These protocols have been communicated by email to all members of the Church, posted on signage at each church, and

compliance is actively monitored by Church-appointed ushers at each church. To my knowledge, there have not been any outbreaks of COVID-19 stemming from any Catholic church or congregation in New York City, including in Brooklyn or Queens.

Professional Background

2. I served with the New York City Police Department and New York City Emergency Management for over 50 years, including as NYPD Chief of Department and Commissioner of New York City Emergency Management, before retiring in 2019.

3. I entered the New York Police Department in August 1968 as a Police Trainee. In April 1971, I was appointed a Patrolman, and began my career on patrol in the 77th Precinct in Brooklyn. I was promoted to Detective in May 1983, Sergeant in September 1983, Lieutenant in February 1986, Captain in June 1989, Deputy Inspector in August 1993, Inspector in August 1994, Deputy Chief in September 1996, and Assistant Chief in December 1997.

4. On August 25, 2000, I was promoted to the position of Chief of Department. As Chief of Department, I directed and controlled the daily operations of the five major enforcement Bureaus (Patrol Services, Detectives, Transit, Housing, and Organized Crime Control) within the NYPD. I also coordinated the crime control strategy meetings at which commanders share tactical information and recommend plans of action for realizing crime reduction goals. I served as Chief of Department until March 2013.

5. In the course of my career, I have served in numerous commands of the department, including the 77th, 10th, 83rd, 109th, 34th, 66th, and 83rd Precincts, and in the Narcotics Division and the Detective Bureau. In my last assignment before becoming Chief of Department, I was the Commanding Officer of the Strategic and Tactical Command (S.A.T.COM) Brooklyn North.

6. During my career in the New York Police Department, I earned some of the department's most honored and prestigious awards, including the Combat Cross, the Medal for Valor, and the Exceptional Merit award.

7. After my retirement from the New York Police Department, I served as the Commissioner of New York City Emergency Management from 2014 to 2019. As Commissioner, as well as in my various leadership roles in the New York Police Department, I trained extensively in disaster preparedness, including participating in multiple tabletop exercises for pandemics among other potential disasters. These tabletop exercises included participants from State, City, and local governments and sought to game out, so to speak, how an emergency would occur to test and practice our responses in the moment.

The Church's Efforts To Protect The Health, Safety, And Religious Needs Of The Community In Light of COVID-19

8. I am a parishioner at the St. Athanasius Roman Catholic Church in Brooklyn, and have been since 1983. When I retired from my position as Chief of Department of the New York City Police Department in 2013, I was asked to serve on a Review Board tasked with reviewing allegations of misconduct by clergy within the New York Catholic Church. In that role, I got to know well the bishops and other senior members of the clergy. I personally witnessed their great compassion for their parishioners and the people of New York City at large. They care deeply about the health and safety of the community.

9. When the COVID-19 pandemic hit the United States, New York State and City authorities issued shelter-in-place regulations to regulate the way that persons and groups could convene in a variety of ways. All of the Catholic churches in New York City, including those in Queens and Brooklyn, were closed for any congregation, worship, or mass for several months.

10. Early on, I became involved in the Church's efforts to figure out how the Catholic churches in New York, including in Queens and Brooklyn, could create safe spaces for religious expression and worship for their congregants. Church officials asked me, with my experience in public safety and emergency preparedness, to chair a commission focused on ensuring that their parishioners' spiritual needs could be met while at the same time doing the utmost to protect the community from the ongoing COVID-19 pandemic. The group of individuals working on these efforts provided guidance to the church leadership, including promulgating written plans and recommendations for safely reopening places of worship. In doing so, we based all proposed regulations for the Catholic churches on the guidelines New York Governor Andrew Cuomo and New York City Mayor Bill de Blasio published, as well as all applicable federal, State, City, and local ordinances related to the COVID-19 pandemic. I also consulted closely with medical professionals, as well as several of my prior colleagues in Emergency Management and the New York Police Department as well as leveraged my own experience in emergency management.

11. Starting in late May 2020, the churches opened in a staged approach that has been conducted in accordance with the iterative regulations promulgated by the State of New York and New York City regulations. In doing so, all Catholic Churches in New York City, including those within the Roman Catholic Diocese of Brooklyn, New York (which covers churches in Brooklyn and Queens), adopted our recommendations on how to institute procedures to safely accommodate their congregants' constitutional and spiritual right to worship and engage in Catholic religious practices. To my knowledge, all of the churches have consistently implemented our recommendations. A PowerPoint deck provided to parishes before opening, which summarizes our recommendations to them, is attached as Exhibit A.

12. These procedures are detailed, and included structural and procedural changes to all churches. For instance, the churches have blocked off every other pew so congregants cannot

sit immediately in front of or behind one another, and seats are marked with tape six feet apart from one another within each open pew to ensure appropriate socially distancing. The churches are only open for abridged hours both on weekdays and for weekend masses. They are also keeping multiple doors open for various points of entry and exit, and directing traffic in and out of the church, to ensure that worshipers enter and exit in a socially distant manner. All churches provide hand sanitizer at stations throughout the churches.

13. Pursuant to our protocols, congregants are required to wear a mask to enter any church, and masks must be worn at all times within church premises, except for a brief moment when they are socially distanced while receiving Holy Communion. Communion is no longer taken on the tongue, and wine is no longer distributed during Communion. The churches have, moreover, retained additional ushers and security guards to restrict the number of persons entering any of the churches at any time, direct traffic, ensure that masks are worn by those entering the church, and enforce compliance with all of the procedures and protocols. All churches have also adhered strictly to the 25% capacity limit imposed by the State.

14. In my view and given my experience, these procedures are robust and rigorous and maintain the highest standards of public safety, while still ensuring the Church's parishioners have the opportunity to worship and engage in religious exercise. As a result, to my knowledge, there have not been any outbreaks of COVID-19 stemming from any Catholic church or congregation in New York City, including in Brooklyn or Queens.

Executed this 8th day of October 2020 at New York, New York.


Joseph J. Esposito